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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/309,366	05/11/1999	MICHAEL R. BANDEMER	BRUNOM.002A	7404

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EXAMINER

RIMELL, SAMUEL G

ART UNIT	PAPER NUMBER
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2175

DATE MAILED: 07/29/2003

13

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/309,366

Applicant(s)

BANDEMER, MICHAEL R.

Examiner

Sam Rimell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,4,8-11,19-24 and 26-32 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1, 4, 8-11, 19-24, 26-32 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- ☐ Interview Summary (PTO-413) Paper No(s). ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

SAM RIMELL
PRIMARY EXAMINER

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The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 10 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 10: Claim 10 includes the phrase “the a numberidentification code” which is vague and confusing.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4, 10-11, 19, 21-24, 26-27 and 30-32 are rejected under 35 U.S.C. 102(b) as being anticipated by Kawamura et al. ('444).

Claim 1: FIG. 4 of Kawamura et al. illustrates a database table. The table includes a resident ID which reads as a bar code. The is considered to be readable as a “bar code” by reason that a bar code can include a number, and applicant’s originally filed claims 6 and 26 explicitly state that the bar code is in fact a number. FIG. 4 further illustrates an item of observational information, such as the house layout “3DK” associated with the bar code number. This item of observational information can be readable as “construction defect” information, since the term construction defect is relative to the external circumstances. For example, if a particular house layout violates local codes or ordinances, the information is automatically considered to be building defect information, even though the information itself gives no explicit indication of a

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defect. FIG. 4 further illustrates the assignment of an identification code, in the form of a residence ID to the database entry. FIG. 5 illustrates a floor plan schematic annotated with the identification code. The shape of the floorplan reflects the observational information (the layout), and thus the observational information becomes part of the floor plan.

Claim 4: The observational information (house layout) is in the form of a code, and is thus readable as a “defect code”. A house layout can be viewed as construction defect information for the reasons recited in the explanation associated with claim 1.

Claim 10: As seen in FIG. 5, the identification code (residence number) is on the floor plan schematic.

Claim 11: The bar code number (resident ID number) and ID code (residence number) are stored in a relational database (FIG. 4).

Claim 19: See remarks for claim 1. The object identifier is the Resident ID shown in FIG. 4.

Claim 21: See remarks for claim 1. The object identifier is the Resident ID shown in FIG. 4.

Claim 22: FIG. 5 illustrates the display of a graphical representation of a building which incorporates the observational information.

Claim 23: The observation information is displayed when the graphical representation of FIG. 5 is displayed. The particular building shown in FIG. 5 is displayed when it is selected for display.

Claim 24: See remarks for claim 4.

Claim 26: See remarks for claim 1 in reference to the bar code.

Claim 27: See remarks for claim 10.

Claim 30: The observational identifier (house layout) includes a number.

Claim 31: See remarks for claim 11.

Claim 32: See remarks for claim 1.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8-9 and 28-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kawamura et al. ('444).

Claims 8 and 28 only differ from Kawamura et al. in the type of data that is attributed as being "observational information". However, using "textual construction defect information" in place of names would have been obvious to one of ordinary skill in the art as a choice of design.

Claims 9 and 29 differ in that the observational information is linked to a synthetic image of a building, rather than a photographic image of a building. However, linking the observational information to real, photographic image would have been obvious to one of ordinary skill in the art as a choice of design.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who

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has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claim 20 is rejected under 35 U.S.C. 102(e) as being anticipated by Crooks et al. ('773).

Claim 20: FIG. 18B illustrates separate subcontractor identifiers ("Austin Chili Suites" and "Denver Mountain Suites"). Each subcontractor identifier has trade identifiers (Electric, natural gas, water, sewer). Trade percentages (see pie charts) are assigned to each one of the trade identifiers and are indicative of a cost to complete an outstanding bill for the trade identifier. For example, in FIG. 18B, the figure of 13.6% is indicative of a cost to complete payment for sewer services for a one year period of time. The "defect" can be read as the incurred cost for sewer service, as the defect is not further defined, except that it is associated with some cost.

Remarks

Applicant's arguments have been considered. Applicant's arguments are based on a conclusion that the reference to Kawamura et al. lacks any suggestion of construction defect information. Examiner maintains that the house layout information, such as "4DK" or "3LDK" is readable as "construction defect information" by reason that this terminology is relative to the circumstances. The phrase "construction defect information" is broad enough that it does not necessarily require an explicit statement, such as "this item contains a defect", or "the walls of this building do not meet Standard XYZ". The terminology used by applicant is relative to the circumstances associated with the building. For example, if a building layout violates local ordinances, the building layout would in fact be considered construction defect information, even though the information itself gives no explicit clue of any defect. For these reasons, the

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examiner maintains that the observational information of Kawamura et al. is in fact readable as building defect information.

This action is not made final.

Any inquiry concerning this communication should be directed to Sam Rimell at telephone number (703) 306-5626.

A handwritten signature in black ink, appearing to read 'S. Rimell', is positioned above the printed name.

Sam Rimell
Primary Examiner
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